

(6) *whether a party or a party's representative possesses specialized expertise that would not be available to a party's outside expert; and*

(7) *the stage of the action.*

SECTION 6. Chapter 134A, Civil Practice and Remedies Code, as amended by this Act, applies only to an action that commences on or after the effective date of this Act. An action that commences before the effective date of this Act is governed by the law applicable to the action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2017.

Passed by the House on April 27, 2017: Yeas 144, Nays 0, 3 present, not voting; passed by the Senate on May 8, 2017: Yeas 31, Nays 0.

Approved May 19, 2017.

Effective September 1, 2017.

**REGULATION OF INSURANCE HOLDING COMPANY
SYSTEMS, INCLUDING INTERNATIONALLY ACTIVE
INSURANCE GROUPS; AUTHORIZING A FEE**

CHAPTER 38

H.B. No. 3220

AN ACT

relating to the regulation of insurance holding company systems, including internationally active insurance groups; authorizing a fee.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 823.002, Insurance Code, is amended by adding Subdivisions (4-b) and (6-a) to read as follows:

(4-b) *"Group-wide supervisor" means the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the commissioner under Section 823.0147 to have sufficient significant contacts with the internationally active insurance group.*

(6-a) *"Internationally active insurance group" means an insurance holding company system that:*

(A) *includes an insurer registered under Subchapter B; and*

(B) *meets the following criteria:*

(i) *has premiums written in at least three countries;*

(ii) *has a percentage of gross premiums written outside the United States of at least 10 percent of the insurance holding company system's total gross written premiums; and*

(iii) *based on a three-year rolling average, has total assets of at least \$50 billion or total gross written premiums of at least \$10 billion.*

SECTION 2. Sections 823.011(a), (d), and (d-1), Insurance Code, are amended to read as follows:

(a) This section applies only to information, including documents and copies of documents, that is:

(1) reported or otherwise provided under Subchapter B or C or Section 823.201(d) or (e) or Section 823.0147;

(2) disclosed to the commissioner under Section 823.010; or

(3) obtained by or disclosed to the commissioner or another person in the course of an examination or investigation under Subchapter H or Chapter 401.

(d) Except as provided by Subsection (e), if the recipient of documents or other information described by Subsection (a) agrees in writing to maintain the confidential and privileged status of the documents or other information, and verifies in writing the legal authority to maintain the confidential and privileged status of the documents or information, the commissioner or another person may disclose the information to any of the following entities functioning in an official capacity:

- (1) a commissioner of insurance or an insurance department of another state;
- (2) an authorized law enforcement official;
- (3) a district attorney of this state;
- (4) the attorney general;
- (5) a grand jury;
- (6) members of a supervisory college described by Section 823.0145;
- (7) the National Association of Insurance Commissioners and its affiliates and subsidiaries; or
- (8) another state, federal, or international regulatory agency.

(d-1) The commissioner may receive documents or information, including otherwise confidential and privileged documents or information, from the entities listed in Subsection (d)[7] and shall maintain as confidential or privileged any document or information received by the commissioner with notice or an understanding that the document or information is confidential or privileged under the laws of the jurisdiction of the entity that provides the document or information.

SECTION 3. Subchapter A, Chapter 823, Insurance Code, is amended by adding Section 823.0147 to read as follows:

Sec. 823.0147. GROUP-WIDE SUPERVISION OF INTERNATIONALLY ACTIVE INSURANCE GROUPS. (a) The commissioner is authorized to act as the group-wide supervisor for any internationally active insurance group under the provisions of this section.

(b) The commissioner may otherwise acknowledge another regulatory official as the group-wide supervisor where the internationally active insurance group:

- (1) does not have substantial insurance operations in the United States;*
- (2) has substantial insurance operations in the United States, but not in this state;*

or

- (3) has substantial insurance operations in the United States and this state, but the commissioner has determined under the factors in Subsections (e) and (k) that the other regulatory official is the appropriate group-wide supervisor.*

(c) An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the commissioner make a determination or acknowledgment as to a group-wide supervisor under this section.

(d) In cooperation with other state, federal, and international regulatory agencies, the commissioner will identify a single group-wide supervisor for an internationally active insurance group. The commissioner may determine that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state. The commissioner may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group.

(e) The commissioner shall consider the following factors when making a determination or acknowledgment under Subsection (d):

- (1) the place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities;*

- (2) the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group;*
- (3) the location of the executive offices or largest operational offices of the internationally active insurance group;*
- (4) whether another regulatory official is acting or is seeking to act as the group-wide supervisor under a regulatory system that the commissioner determines to be:*
 - (A) substantially similar to the system of regulation provided under the laws of this state; or*
 - (B) otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials; and*
- (5) whether another regulatory official acting or seeking to act as the group-wide supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.*
- (f) A commissioner identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgment of the group-wide supervisor shall be made after consideration of the factors listed in Subsection (e), and shall be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group, and in consultation with the internationally active insurance group.*
- (g) Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the commissioner shall acknowledge that regulatory official as the group-wide supervisor.*
- (h) The commissioner shall make a determination or acknowledgment as to the appropriate group-wide supervisor for an internationally active insurance group under Subsection (d) or (f) in the event of a material change in the internationally active insurance group that results in:*
 - (1) the internationally active insurance group's insurers domiciled in this state holding the largest share of the group's premiums, assets, or liabilities; or*
 - (2) this state being the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.*
- (i) Under Subchapter H, the commissioner is authorized to collect from any insurer registered under Subchapter B all information necessary to determine whether the commissioner may act as the group-wide supervisor of an internationally active insurance group or if the commissioner may acknowledge another regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the commissioner, the commissioner shall notify the insurer registered under Subchapter B and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group shall have not less than 30 days to provide the commissioner with additional information pertinent to the pending determination. The commissioner may publish on the department's website the identity of internationally active insurance groups that the commissioner has determined are subject to group-wide supervision by the commissioner.*
- (j) If the commissioner is the group-wide supervisor for an internationally active insurance group, the commissioner is authorized to engage in any of the following group-wide supervision activities:*
 - (1) assess the enterprise risks within the internationally active insurance group to ensure that:*
 - (A) the material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in the business of insurance are identified by management; and*
 - (B) reasonable and effective mitigation measures are in place;*

(2) request, from any member of an internationally active insurance group subject to the commissioner's supervision, information necessary and appropriate to assess enterprise risk, including information about the members of the internationally active insurance group regarding:

- (A) governance, risk assessment, and management;
- (B) capital adequacy; and
- (C) material intercompany transactions;

(3) coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance;

(4) communicate with other state, federal, and international regulatory agencies for members within the internationally active insurance group and share relevant information, subject to the confidentiality provisions of Section 823.011, through supervisory colleges in Section 823.0145 or otherwise;

(5) enter into agreements with or obtain documentation from any insurer registered under Subchapter B, any member of the internationally active insurance group, and any other state, federal, and international regulatory agencies for members of the internationally active insurance group, providing the basis for or otherwise clarifying the commissioner's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials, provided that such agreements or documentation may not serve as evidence in any proceeding to show that any insurer or person within an insurance holding company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state; and

(6) other group-wide supervision activities, consistent with the authorities and purposes enumerated above, as considered necessary by the commissioner.

(k) If the commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the National Association of Insurance Commissioners is the group-wide supervisor, the commissioner is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor, provided that:

(1) the commissioner's cooperation is in compliance with the laws of this state; and

(2) the regulatory official acknowledged as the group-wide supervisor also recognizes and cooperates with the commissioner's activities as a group-wide supervisor for other internationally active insurance groups where applicable.

(l) Where recognition and cooperation are not reasonably reciprocal under Subsection (k)(2), the commissioner is authorized to refuse recognition and cooperation.

(m) The commissioner is authorized to enter into agreements with or obtain documentation from any insurer registered under Subchapter B, any affiliate of the insurer, and other state, federal, and international regulatory agencies for members of the internationally active insurance group that provides the basis for or otherwise clarifies a regulatory official's role as group-wide supervisor.

(n) The commissioner may adopt rules necessary for the administration of this section.

(o) A registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's participation in the administration of this section, including the engagement of attorneys, actuaries, and any other professionals and all reasonable travel expenses.

SECTION 4. Section 823.054(b), Insurance Code, is amended to read as follows:

(b) If the amount of a single transaction or the total amount of all transactions involving sales, purchases, exchanges, loans or other extensions of credit, or investments is

more than ~~[the lesser of]~~ one-half of one percent of an insurer's admitted assets ~~[or five percent of an insurer's surplus,]~~ as of December 31 of the year preceding the date of the transaction or transactions, the transaction or transactions, respectively, are considered to be material for purposes of this section.

SECTION 5. (a) Section 823.011, Insurance Code, as amended by this Act, applies only to information, including documents and copies of documents, obtained by or reported, disclosed, or otherwise provided to the commissioner of insurance on or after the effective date of this Act. Information, including documents and copies of documents, obtained by or reported, disclosed, or otherwise provided to the commissioner of insurance before the effective date of this Act is governed by the law in effect on the date the transaction occurred, and the former law is continued in effect for that purpose.

(b) Section 823.054, Insurance Code, as amended by this Act, applies only to a transaction that occurs on or after the effective date of this Act. A transaction that occurs before the effective date of this Act is governed by the law in effect on the date the transaction occurred, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

Passed by the House on April 28, 2017: Yeas 134, Nays 0, 2 present, not voting; passed by the Senate on May 8, 2017: Yeas 31, Nays 0.

Approved May 19, 2017.

Effective May 19, 2017.

A PRIVILEGE FROM DISCLOSURE TO GOVERNMENTAL UNITS FOR CERTAIN EVIDENCE CONCERNING SERMONS DELIVERED BY A RELIGIOUS LEADER

CHAPTER 39

S.B. No. 24

AN ACT

relating to a privilege from disclosure to governmental units for certain evidence concerning sermons delivered by a religious leader.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 150A to read as follows:

CHAPTER 150A. DISCOVERY BY GOVERNMENTAL UNIT

Sec. 150A.001. DEFINITIONS. In this chapter:

- (1) "Governmental unit" has the meaning assigned by Section 101.001.
- (2) "Religious organization" means an organization that qualifies as a religious organization under Section 11.20, Tax Code.
- (3) "Religious worship" has the meaning assigned by Section 11.20, Tax Code.

Sec. 150A.002. SERMONS PRIVILEGED FROM DISCLOSURE TO GOVERNMENTAL UNIT. A governmental unit may not, in any civil action or other civil or administrative proceeding to which the governmental unit is a party, compel the production or disclosure of a written copy or audio or video recording of a sermon delivered by a religious leader during religious worship of a religious organization or compel the religious leader to testify regarding the sermon.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all